

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

SWINTER GROUP, INC,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Federal Cause No.
	)	
MEADOWLARK TRANSPORT, INC.,	)	
	)	State Court Cause No. 1711-CC01267
and	)	
	)	
RYAN W. SPOONEMORE,	)	JURY TRIAL DEMANDED
	)	
Defendants.	)	

**NOTICE OF REMOVAL**

COMES NOW Defendant, MEADOWLARK TRANSPORT, INC., pursuant to the Federal Rules of Civil Procedure (“FRCP”) and 28 U.S.C. 1331, 1441 and 1446, and for its Notice of Removal, states as follows:

I.

**The Parties**

***The Plaintiff***

1. Plaintiff, SWINTER GROUP, INC. (hereinafter “Plaintiff”), is a Missouri corporation with its principal place of business located in St. Charles County, Missouri. See Paragraph (1) of Plaintiff’s Petition.

***The Defendants***

2. Defendant, MEADOWLARK TRANSPORT, INC. (hereinafter “Meadowlark”), is a Montana corporation with its principal place of business in Billings, Montana. See Paragraph (2) of Plaintiff’s Petition.

3. Defendant, RYAN W. SPOONEMORE, is an individual residing in Montana and an employee of Defendant Meadowlark. See Paragraph (7) of Plaintiff's Petition.

## II.

### **The Cause of Action Asserted in Plaintiff's Petition Presents A Federal Question**

4. The cause of action asserted in Plaintiff's Petition is predicated upon and seeks relief under the Telephone Consumer Protection Act ("TCPA"). See 47 U.S.C. 227 et seq. and Paragraphs (10) through (40) of Plaintiff's Petition.

5. The United States Code, Section 28 U.S.C. 1331, provides as follows:

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

The TCPA is a federal law enacted by Congress and, therefore, this honorable District Court has original "federal question" jurisdiction over Plaintiff's claim under the TCPA.

6. The United States Supreme Court, in Mims v. Arrow Financial Services LLC, 565 U.S. 368 (2012), has determined that the United States District Courts have original "federal question jurisdiction over private TCPA suits." Mims, 565 U.S. at 369-371.

## III.

### **Removal Is Timely Filed & Proper**

7. Defendant Meadowlark's Notice of Removal is timely filed in that this Notice of Removal was filed within thirty (30) days of the lawsuit being served upon Defendant Meadowlark. See 28 U.S.C. 1446 (b).

***Consent of the Defendant***

8. The other Defendant named in the case, Ryan W. Spoonemore, has consented to Defendant Meadowlark's Notice of Removal. See attached Consent to Removal.

***Record of Proceedings***

9. Defendant has attached all the pleadings filed with the state court prior to the filing of this Notice of Removal.

WHEREFORE Defendant, Meadowlark Transport, Inc., prays that an Order be entered herein thereby causing Cause No. 1711-CC01267 pending in the Circuit Court of St. Charles County, Missouri, to be removed to this United States District Court for the Eastern District of Missouri for further proceedings, and that this Court take jurisdiction herein and make such further orders as may be proper under the circumstances.

**REBMAN, LINHARES & BEACHEM**  
A Professional Corporation

/s/ Joseph E. Rebman  
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**Certificate of Service**

This will certify and affirm that this pleading was served upon the parties and counsel this 26<sup>th</sup> day of February, 2018, by filing same with the Court's ECF Notice of Electronic Filing system and by mailing a copy of same by First-Class US Mail, postage prepaid, to the following: Ronald J. Eisenberg, Schultz & Associates, LLP, 640 Cepi Drive, Suite A, Chesterfield, MO 63005.

/s/ Joseph E. Rebman